IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELVETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 8125 of 2005

Between:

Ragolu Seetharam, s/o. yarakyya,
R/o. Q.No.330/C, Steel Plant Township, Visakhapatnam.

..... PETITIONER

AND

1 The Chairman-cum-Managing Director, Visakhapatnam Settel

Plant, Visakhapatnam.
2 The Deputy General Manager (Utilities), Visakhapatnam Steel

Plant, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ order or direction more particularly one in the nature of writ of Mandamus directing the respondents to revoke the suspension order dt. 14.3.2005 issued under Ref. No. WK/UT/KS/2005/325 by the Deputy General Manager (Utilities) & Disciplinary Authority, declaring the said suspension order resulting non application of mind, arbitrary and discriminatory and was passed in routine and mechanically.

Counsel for the Petitioner:MR.S.V.R.SUBRAHMANYAM

Counsel for the Respondent Nos.1 & 2: MR.V.RAVINDRA RAO

The Court at the admission stage made the following :

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ORDER:

Seeking to direct the respondents to revoke the suspension order dated 14-3-2005 under Ref.No.WK/UT/JS/2005/325 issued by the Deputy General Manager (Utilities) & Disciplinary Authority and for seeking to declare the said suspension order resulting in non application of mind, as arbitrary and discriminatory, the present writ petition is filed by the petitioner.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

The petitioner was placed under suspension on the ground that he was arrested by the police and detained in the judicial custody for more than 48 hours. As per Clause 21.2 of C.D.A. Rules, if any person is detained in judicial custody for more than 48 hours, he shall be deemed to have been suspended. Therefore, the impugned order has been passed.

The learned counsel for the petitioner contended that without application of mind, the impugned proceedings have been passed.

On the other hand, the learned Standing Counsel for the respondents submitted that it is a deemed suspension because the petitioner was detained in judicial custody for more than 48 hours.

The learned counsel for the petitioner also placed a strong reliance in P.

RAJENDER V. UNION OF INDIA wherein this Court

held as under;

> "It is, therefore, incumbent on the part of the appropriate authority to apply its mind as regards the stage of the matter in which the criminal case is pending".

In that case, the petitioner was placed under suspension on the ground that the charge sheet has been filed against him under Sections 494 and 498 IPC. It is not a case of detention of the petitioner therein in judicial custody. Therefore, it has no application to the present facts of the case.

Whereas, in this case, as per Clause 21.2 of the C.D.A.Rules, if the petitioner was detained in judicial custody for more than 48 hours, he shall be deemed to be under suspension. Since the Rules itself contemplate the deeming suspension, the application or non-application of mind does not arise. Hence, the writ petition is devoid of merits.

Lastly, the learned counsel for the petitioner submitted that the representation of the petitioner seeking revocation of the suspension is pending with the respondents.

This order will not preclude the respondents in taking appropriate decision on the said representation in accordance with the Rules for revocation of suspension of the petitioner.

Accordingly, the Writ Petition is disposed of. No costs.

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12-04-2005

To

1 The Chairman-cum-Managing Director, Visakhapatnam Settel

Plant, Visakhapatnam.

2 The Deputy General Manager (Utilities), Visakhapatnam Steel

Plant, Visakhapatnam.

3. Two C.D. copies.

Note:

CC by two days.

(Bo)

sj